

1 THE HONORABLE JOHN C. COUGHENOUR
2 THE HONORABLE MARY ALICE THEILER
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 Robert John Preston,
11 v.
12 Ryan Boyer,
13 Plaintiff,
Defendant.

Case No. C16-1106-JCC-MAT

**STIPULATION AND [PROPOSED]
ORDER LIMITING DISCOVERY AND
AMENDING CASE SCHEDULE**

**NOTE ON MOTION CALENDAR:
August 15, 2017**

15 **STIPULATION**
16

17 Plaintiff Robert Preston and Defendant Ryan Boyer (collectively, the “Parties”) stipulate
18 and agree as follows:

19 1. In this 42 U.S.C. § 1983 action, Mr. Preston asserts claims for violation of his
20 constitutional rights in connection with his arrest by Snohomish County Sheriff’s Deputy Boyer.
21 Dkt. 10.

22 2. Deputy Boyer has asserted a qualified immunity defense, among other defenses.
23 Dkt. 21.

24 3. Mr. Preston was originally proceeding pro se, but on April 5, 2017, the Court
25 granted Mr. Preston’s motion to appoint counsel. Dkt. 58.

26 4. Mr. Preston’s appointed counsel appeared in the case on April 24, 2017. Dkt. 61.

(Case No. C16-1106-JCC-MAT) – 1
STIP. AND [PROPOSED] ORDER LIMITING
DISCOVERY AND AMENDING CASE SCHEDULE

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1 5. On May 1, 2017, the Court entered an Amended Pretrial Scheduling Order setting
2 a discovery cutoff of September 8, 2017, and a dispositive motion deadline of October 6, 2017.
3 Dkt. 62.

4 6. Consistent with the United States Supreme Court's pronouncement that qualified
5 immunity issues should be resolved at the "earliest possible stage of a litigation" and that any
6 needed discovery "should be tailored specifically to the question of [the defendant's] qualified
7 immunity" defense, *see Anderson v. Creighton*, 483 U.S. 635, 668 & n.6 (1987), the Parties
8 agree that discovery should be limited at this stage of the case to the issue of qualified immunity,
9 with the understanding that if this matter survives summary judgment on that issue, both fact and
10 expert discovery will be reopened to all other issues.

11 7. The Parties therefore request an order regarding the scope of discovery consistent
12 with this understanding.

13 8. The Parties have worked diligently to meet the scheduling order's deadlines, but
14 they request modification of the existing deadlines. Due to the constraints of communicating
15 with a party who is currently incarcerated in Eastern Washington, and because of scheduling
16 conflicts for fact witnesses, expert witnesses, and counsel, the Parties stipulate to and request
17 modification of the current discovery and dispositive motion deadlines.

18 9. The Parties request that the Court modify the current discovery deadline
19 (September 8, 2017) as follows:

- 20 a. September 29, 2017 for fact discovery;
- 21 b. October 20, 2017 for disclosure of expert reports; and
- 22 c. November 9, 2017 for expert depositions.

23 10. The Parties also request that the current deadline for dispositive motions (October
24 6, 2017) be changed and that the following briefing schedule be set:

- 25 a. November 17, 2017 filing deadline for a summary judgment motion on the
26 issue of qualified immunity;

- 1 b. December 8, 2017 for the Opposition; and
2 c. December 15, 2017 for the Reply.

3 The requested briefing schedule accounts for the modified discovery deadlines proposed above
4 and provides an accommodation for the Thanksgiving holiday by slightly extending the typical
5 response times for the Opposition and Reply.

6 11. The modest modifications of deadlines proposed above will not impact a trial
7 date, as no trial date has yet been set. Good cause exists to modify the deadlines for the reasons
8 identified above.

9
10 RESPECTFULLY SUBMITTED this 15th of August, 2017

11 By: s/ J. Camille Fisher
12 J. Camille Fisher, WSBA #41809

13 By: s/ Laura Hill
14 Laura C. Hill, WSBA #49229

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35 *Attorneys for Defendant Ryan Boyer*

[PROPOSED] ORDER

Based on the foregoing stipulation, IT IS SO ORDERED.

1. Discovery at this time shall be limited to the issue of qualified immunity. If this matter survives summary judgment on that issue, both fact and expert discovery will be reopened to all other issues, and an amended case schedule entered at an appropriate time.

2. The current discovery deadline is modified as follows:

- a. September 29, 2017 deadline for fact discovery;
 - b. October 20, 2017 deadline for disclosure of expert reports; and
 - c. November 9, 2017 deadline for expert depositions.

3. The current deadline for dispositive motions is modified, and the following briefing schedule is set:

- a. November 17, 2017 filing deadline for a summary judgment motion on the issue of qualified immunity;
 - b. December 8, 2017 for the Opposition; and
 - c. December 15, 2017 for the Reply.

Dated this 29th day of August, 2017



Mary Alice Theiler
United States Magistrate Judge